IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

WP(C).No. 33974 of 2005(T)

PETITIONER:

MOHANAN, S/O. MADATHIPARAMBIL
PEETHAMBARAN, PUTHENCHIRA VILLAGE,
THEKKUMMURI DESOM, MUKUNDAPURAM TALUK.

BY ADV. SRI.T.H.ABDUL AZEEZ
SRI.T.B.HOOD

RESPONDENT:

PEETHAMBARAN, S/O. MADATHIPARAMBIL
KRISHNAN, PUTHENCHIRA VILLAGE,
THEKKUMMURI DESOM, MUKUNDAPURAM TALUK.

BY ADV. SRI.K.J.MOHAMMED ANZAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX(WPC 33974/05)

PETITIONER'S EXTS.:

EXT.P1: TRUE COPY OF THE PLAINT IN O.S.NO.1115/2001 OF THE MUNSIFF'S COURT, KODUNGALLUR DATED 29.10.2001.

EXT.P2: TRUE COPY OF THE ORDER DATED 11.7.2005 IN O.S.115/2001 OF THE MUNSIFF'S COURT, KODUNGALLUR.

PIUS C. KURIAKOSE,J.

- -

W.P.(C) No.33974 of 2005

- -

Dated: 25th July, 2007

JUDGMENT

Ext.P1 is the plaint and the grievance of the plaintiff-petitioner in this Writ Petition under Article 227 is that the learned Munsiff has vide Ext.P2 findings on issue No.1 regarding the propriety of valuation and sufficiency of court fees found that valuation of the suit property at Rs.4,000/- under Section 25(b) of the Court Fees and Suit Valuation Act is inadequate and has directed the petitioner to value the suit at an amount exceeding Rs.7 lakhs.

2. Heard Mr.T.H.Abdul Azeez, learned counsel for the petitioner.

3. Having regard to his submissions, I feel that it would have been sufficient if the petitioner sought for cancellation of the cancellation deed in which case court fee would have been payable only in terms of Section 40 of the Act. Mr.Azeez submitted that the petitioner did not seek any relief in respect of the building situated on the property though he had averred in the plaint that he had to spend Rs.7 lakhs for its construction. It is open to the petitioner to seek amendment of the plaint so as to incorporate fresh reliefs in the prayer portion of the plaint and also to amend the plaint schedule in such a manner as to exclude the building in question. The petitioner

is permitted to file such an amendment application within one month of his receiving copy of this judgment. If such an application is filed, the learned Munsiff will pass appropriate orders on the application without being influenced in any manner by the impugned order.

The Writ Petition is disposed of as above. No costs.

srd **PIUS C.KURIAKOSE, JUDGE**